

DRAWING AMENDMENTS

The attached sheet of drawings includes changes to Fig. 2. This sheet which includes only Fig. 2, replaces the original sheet including Fig. 2. In Fig. 2, previously omitted reference symbol 54 has been added.

Please approve the drawing changes that are marked in red on the accompanying "Annotated Sheet Showing Changes" of Fig. 2. A formal "Replacement Sheet" of amended Fig. 2 is also enclosed.

Attachments:    Replacement Sheet  
                  Annotated Sheet Showing Changes

REMARKS/ARGUMENTS

Reconsideration of the application is requested.

Claims 1-15 are now in the application and are subject to examination. Claims 12 and 13 have been amended. Claims 14 and 15 have been added. Claims 1-11 have been allowed.

In "Drawings", item 1 on page 2 of the above-identified Office Action, the Examiner objected to the drawings as not including step 54 in Fig. 2. A corrected Fig. 2 is enclosed herewith in which reference numeral 54 has been added.

In "Claim Rejections - 35 USC § 112", item 3 on pages 2-3 of the Office Action, claims 12 and 13 have been rejected as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention, under 35 U.S.C. § 112, first paragraph.

More specifically, the Examiner states that:

1. Claims 12 and 13 are written in "single means claim" format since they recite only one element to do all the functions recited; and

2. Claims 12 and 13 are drawn to any "Underwriter" since they claim achieving a result without defining what means will do so.

Applicants respectfully disagree with the Examiner's rejections for the reasons set forth below. Nevertheless, claims 12 and 13 have been amended and new claims 14 and 15 have been added to facilitate prosecution of the instant application.

Original claim 12 called for, *inter alia*:

an apparatus comprising a processing unit programmed to obtain; find; distribute; find; determine; distribute; repeatedly find; and accumulate.

Original claim 13 called for, *inter alia*:

an apparatus comprising a processing unit programmed to obtain; find; find; determine; distribute; repeatedly find; and accumulate.

Regarding item 1. above, the steps of obtaining; finding; distributing; finding; determining; distributing; repeatedly finding; and accumulating make it clear that a single means was provided in claim 12. Similarly, the steps of obtaining; finding; finding; determining; distributing; repeatedly finding; and accumulating make it clear that a single means was provided in claim 13.

Nevertheless, as stated above, in order to facilitate prosecution of the instant application, claims 12 and 13 have been amended and now call for the apparatus comprising an output and a processing unit connected to said output and programmed to .... The output is repeatedly mentioned in the Specification of the instant application.

Regarding item 2. above, original claims 12 and 13 certainly did define what means achieve the result. Those means are the processing unit.

A simple search of the USPTO website for claim language yields 185 hits of U.S. patents containing the wording "processing unit programmed to." In each of these patents, the processing unit achieves the result. A search of similar wording, such as "programmed to carry out" and "programmed to perform" yields even more hits and this does not include published applications. Accordingly, if the Fiers v. Revel decision is applicable at all outside the realm of biotech, it is not applicable to the instant application.

It is accordingly believed that the rejection of claims 12 and 13 under 35 USC § 112 is improper and should be withdrawn. In addition, if the Examiner disagrees with

Applicants regarding this rejection, the Examiner is respectfully requested to consult with the SPE before issuing another Office action.

Finally, Applicants appreciatively acknowledge the Examiner's statement that claims 1-11 are allowed.

In view of the foregoing, reconsideration and allowance of claims 12-15 and the issuance of a Notice of Allowance for claims 1-15, are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out.

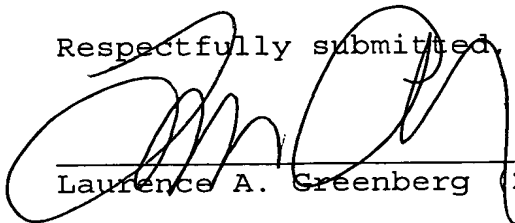
If an extension of time is required, petition for extension is herewith made. Any extension fee associated therewith should be charged to the Deposit Account of Lerner and Greenberg, P.A., No. 12-1099.

Payment in the amount of \$400.00 for two additional independent claims in excess of three is enclosed.

Appl. No. 09/978,395  
Amdt. dated 2/27/06  
Reply to Office action of 11/25/05

Please charge any other fees that might be due with respect  
to Sections 1.16 and 1.17 to the Deposit Account of Lerner  
and Greenberg, P.A., No. 12-1099.

Respectfully submitted,

  
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LAG/bb

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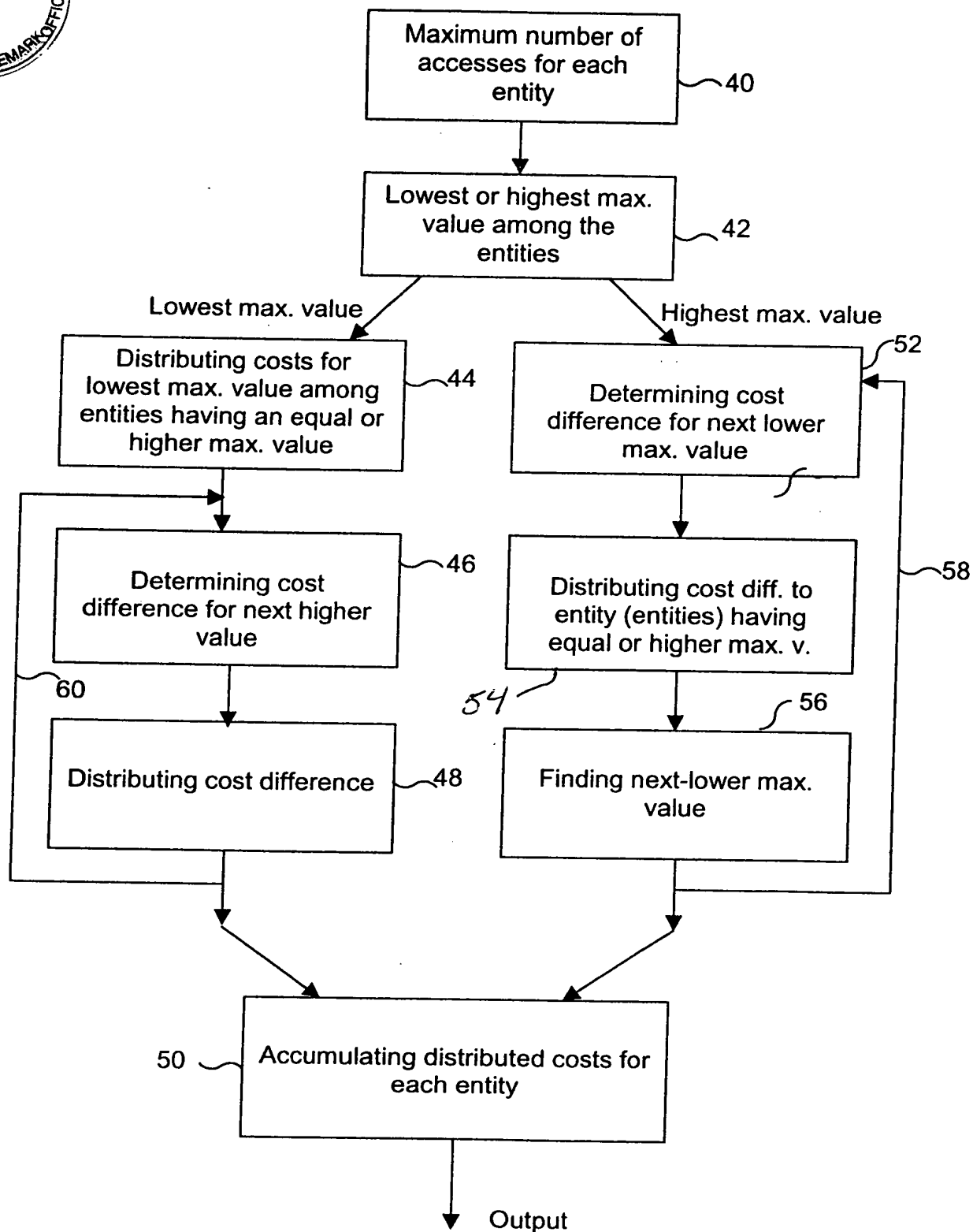


FIG 2

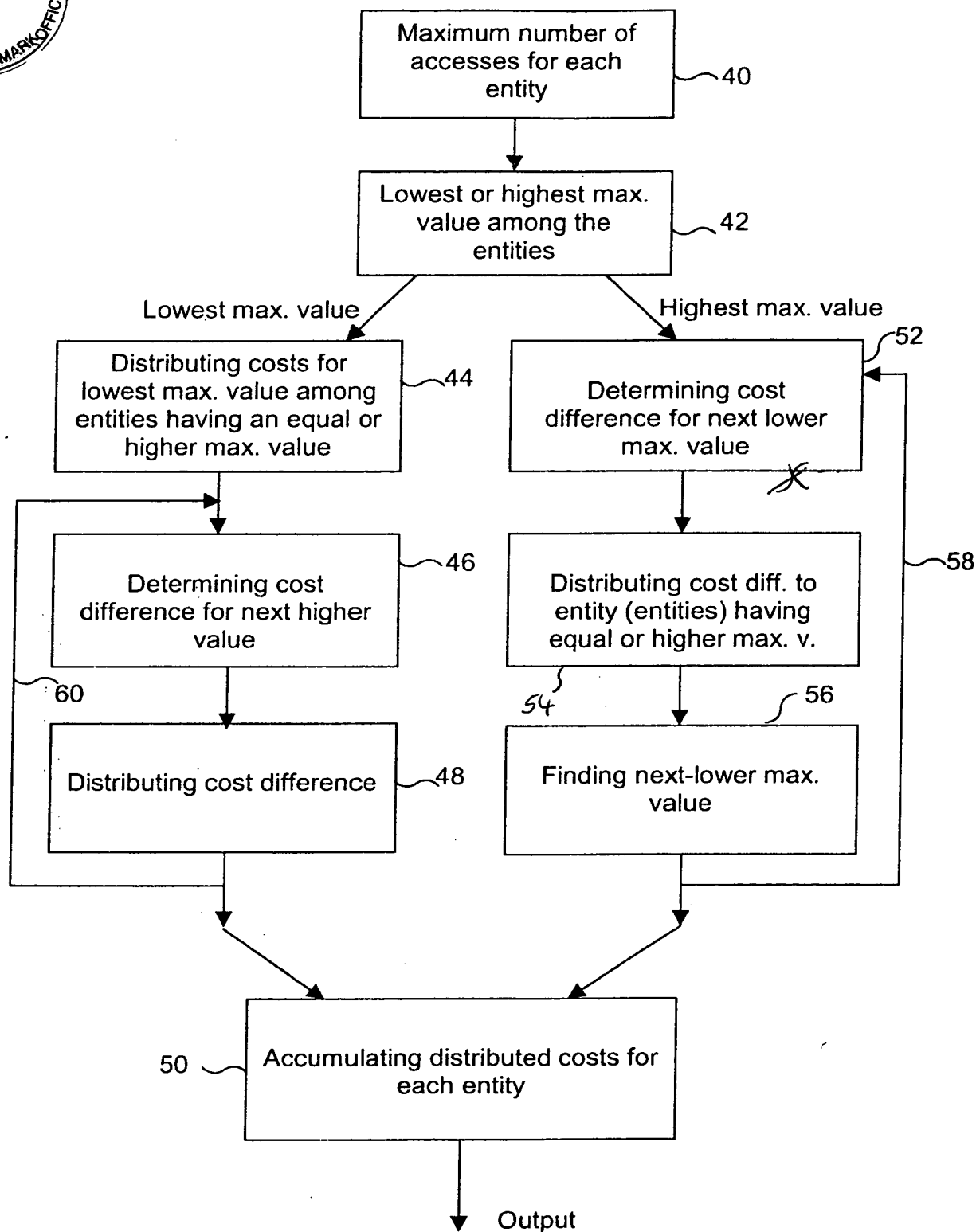


FIG 2